

SKAMANIA COUNTY HOSPITAL DISTRICT
Skamania County, Washington
Special Audit
October 18, 1995 Through May 7, 1996

Schedule Of Findings

1. Skamania County Hospital District Board Should Comply With The Open Public Meetings Act

Based on concerns brought to us by various citizens, we reviewed hospital district activity between October 18, 1995, and May 7, 1996, for compliance with the Open Public Meetings Act. Our review found several violations of the Act as follows:

- a. Phone conferences were held by a quorum of the board - Phone records contained numerous instances when two of the board members, a quorum of the three member board, met by phone. Conversation times ranged from under one minute to over an hour in length.
- b. Board action taken outside an open public meeting - On March 29, 1996, two commissioners, without the knowledge of the chairman of the board, executed a hold harmless agreement to be signed by the former executive director before leave balance pay was to be released to her. This action was taken outside a public meeting. In an effort to avoid violation of the Open Public Meetings Act, the two commissioners used a third party to exchange and deliver information, including the agreement which was signed and executed by both commissioners.

The legislative declaration regarding open public meetings is provided in RCW 42.30.010 as follows:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted

openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Regarding action taken at meetings which fail to meet the provisions, RCW 42.30.060 states in part:

No governing body of a public agency shall adopt any ordinance, resolution, rule, regulation, order, or directive, except in a meeting open to the public and then only at a meeting, the date of which is fixed by law or rule, or at a meeting of which notice has been given according to the provisions of this chapter. **Any action taken at meetings failing to comply with the provisions of this subsection shall be null and void.** (Emphasis ours.)

Regarding violations of the Open Public Meetings Act, RCW 42.30.120 states in part:

(1) Each member of the governing body who attends a meeting of such governing body where action is taken in violation of any provision of this chapter applicable to him, with knowledge of the fact that the meeting is in violation thereof, shall be subject to personal liability in the form of a civil penalty in the amount of one hundred dollars. The civil penalty shall be assessed by a judge of the superior court and an action to enforce this penalty may be brought by any person . . .

(2) Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded all costs, including reasonable attorney fees, incurred in connection with such legal action.

When hospital district business is conducted outside open public meetings, the board violates the legislative directive "that their actions be taken openly and that their deliberations be conducted openly" and citizens are denied their right to be informed and have input to such business. Further, any such action taken by the district is null and void.

In our report issued in October 1993, the district was informed of 16 violations of the Open Public Meetings Act. Continued violations may subject individual commissioners to civil penalties.

The commissioners involved in these violations indicated they were not aware that phone conversations constituted a meeting. They also felt that, because they gave information to a third party, no meeting had occurred regarding the hold harmless agreement.

We again recommend the hospital district board comply with all provisions of the Open Public Meetings Act.